IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.36969 of 1998

Dated: August 6, 2007

Between:

T. Ramesh Chandra, S/o. Subbanaidu,
Aged 32 years, R/o. Pothapi Village,
Nandaluru Mandal, Cuddapah District.

... Petitioner

And

Special Deputy Collector and Land Acquisition
Officer, Telugu Ganga Project, Nellore, at
Rajampet, Rajampet Post, Cuddapah District.

... Respondent

HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 36969 of 1998

ORDER:

This Writ Petition is filed seeking Writ of Mandamus to declare the action of the respondent in not passing award pursuant to the notification dated 21-1-1996 issued under Section 4(1) of the Land Acquisition Act, 1894, with regard to lands, structures and trees covered by Sy.Nos. 458/3/A, 487, 488 and 401 in reach No.3, in an

extent of Ac.5.00 cents situated in Pothapi village, Nandalur Mandal of Cuddapah District as illegal and arbitrary.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Land Acquisition appearing on behalf of the respondent.

The above said land of the petitioner, along with some other lands, was notified for acquisition, for the public purpose, namely Somasila Project. Notification under Section 4(1) of the Land Acquisition Act, 1894 was published in the Official Gazettee on 28-12-1995. On the ground that all the structures, which were in existence were not notified in the notification issued Under Section 4(1) of the Land Acquisition Act, 1894, the petitioners, along with 19 others, earlier, filed Writ Petition No. 1656 of 1996 before this Court, seeking direction to include all the structures for the purpose of assessing compensation. This Court, by order dated 26-12-1996, while disposing of the said Writ Petition, permitted the petitioners to raise such objection before the Land Acquisition Officer and directed the respondent to conduct enquiry. It was further observed in the aforesaid order that if the petitioners are not satisfied with the award passed by the Land Acquisition Officer, it is open for them to seek reference under Section 18 of the Land Acquisition Act, 1894.

So far as structures are concerned, it is stated in the counter affidavit that all the structures which were existing as on the date of issuance of notification under Section 4(1) of the LA Act, were mentioned in the said notification issued under Section 4(1) of the LA Act. It is stated that some structures were raised subsequent to the notification issued under Section 4(1) of the LA Act, only with malafide intention to claim compensation for the said structures also. It is further stated that the said structures were raised temporarily and the same are not useful for residential or any other purpose.

As per the definition of 'land' as defined under Section 3(a) of the LA Act, it includes benefits arising out of the land, and things attached to the earth or permanently fastened to anything attached to the earth. While it is the case of the petitioner that some structures which were in existence before issuance of notification under Section 4(1) of the Act were not notified, it is the case of the respondent that all the structures which were in existence as on the date of notification under Section 4(1) of the LA Act were notified, and, by raising some structures temporarily after issuance of Section 4(1) Notification, to claim higher compensation, the petitioner has come up with this petition. If there are any structures which are omitted and compensation is not paid, the petitioner can have recourse to the remedies open under the Land Acquisition Act, 1894 itself. Further, though there was time for passing the Award up to 22-01-1999, the petitioner himself obtained interim orders in this case on 19-1-1999, by which, all further proceedings are stayed pursuant to the notification under Section 4(1) of the LA Act. Further, even in the counter affidavit it is not stated as to whether any award has been passed or not. But, however, even if award is not passed, it is not open for the petitioner to complain about not passing of the Award, as the petitioner himself obtained interim order. It is stated by the respondents that possession of the subject land is already taken.

In that view of the matter, I dispose of the Writ Petition, directing the respondent to pass award with regard to the land of the petitioner, if not already passed as on today, within a period of three months from the date of receipt of this order. However, with regard to claim of the petitioner for structures, it is left open for him to take steps in accordance with the provisions of the Land Acquisition Act, 1894. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 6th August, 2007
MRR/Msnr